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11  
12 UNITED STATES DISTRICT COURT  
13 CENTRAL DISTRICT OF CALIFORNIA  
14 WESTERN DIVISION  
15

16 MICHAEL GRECCO  
17 PRODUCTIONS, INC., d/b/a “Michael  
18 Grecco Photography”, a California  
19 corporation,

20 Plaintiff,

21 v.

22 VALNET, INC., a Canadian  
23 Corporation, individually, and doing  
24 business as “Screenrant.com” and  
25 “Collider.com”; and DOES 1-10,

26 Defendants.  
27

Case No. 2:23-cv-04086-WLH-E

Hon. Wesley L. Hsu

**DEFENDANT VALNET, INC.’S  
ANSWER TO THE COMPLAINT**

Complaint Filed: May 25, 2023

28 Defendant Valnet, Inc. (“Valnet” or “Defendant”), by its undersigned  
counsel, hereby answers the complaint of plaintiff Michael Grecco Productions,  
Inc., d/b/a Michael Grecco Photography (“Grecco” or “Plaintiff”) dated May 25,  
2023 (ECF 1) as follows:

**JURISDICTION AND VENUE<sup>1</sup>**

1. Defendant admits that the claims asserted by Plaintiff in the Complaint purportedly arise under the Copyright Act. Except as specifically admitted, Defendant denies the allegations in Paragraph 1, and further specifically denies that there is any basis for Plaintiff's asserted claims or that Defendant engaged in acts constituting copyright infringement.

2. Paragraph 2 contains legal conclusions to which no response is required. To the extent any response is required, Defendant admits that this Court has subject matter jurisdiction over federal copyright claims pursuant to 28 U.S.C. §§ 1331 and 1338(a). Except as expressly admitted, Defendant denies each and every allegation contained in Paragraph 2.

3. Paragraph 3 contains legal conclusions to which no response is required. To the extent any response is required, Defendant denies that it is subject to personal jurisdiction in this Court, as this Court lacks personal jurisdiction over Defendant. Except as expressly admitted, Defendant denies each and every allegation contained in Paragraph 3.

**PARTIES**

4. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 4, and on that basis denies each and every allegation contained therein.

5. Defendant admits that Valnet, Inc. is a Canadian corporation that owns and operates the websites "screenrant.com" and "collider.com." Except as expressly admitted, Defendant denies the remaining allegations contained in Paragraph 5.

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<sup>1</sup> The headings of the Complaint are included herein for convenience, and to the extent such headings contain any factual allegations to which a response is required, all such allegations are denied.

1           6. Defendant is without sufficient knowledge or information to form a  
2 belief as to the truth of the allegations contained in Paragraph 6, and on that basis  
3 denies each and every allegation contained therein.

4           7. Paragraph 7 contains legal conclusions to which no response is  
5 required. To the extent any response is required Defendant denies each and every  
6 allegation contained therein.

7                   **CLAIMS RELATED TO SUBJECT PHOTOGRAPH 1**

8           8. Defendant lacks knowledge or information sufficient to form a belief  
9 as to truth of the allegations contained in Paragraph 8, and on that basis denies  
10 each and every allegation contained therein.

11           9. Defendant denies the allegations set forth in Paragraph 9.

12           10. Defendant is without sufficient knowledge or information to form a  
13 belief as to the truth of the allegations contained in Paragraph 10, including as to  
14 what the images in Paragraph 10 are alleged to reflect, and on that basis denies  
15 each and every allegation contained therein.

16                   **CLAIMS RELATED TO SUBJECT PHOTOGRAPH 2**

17           11. Defendant lacks knowledge or information sufficient to form a belief  
18 as to truth of the allegations contained in Paragraph 11, and on that basis denies  
19 each and every allegation contained therein.

20           12. Defendant denies the allegations set forth in Paragraph 12.

21           13. Defendant is without sufficient knowledge or information to form a  
22 belief as to the truth of the allegations contained in Paragraph 13, including as to  
23 what the images in Paragraph 13 are alleged to reflect, and on that basis denies  
24 each and every allegation contained therein.

25                   **CLAIMS RELATED TO SUBJECT PHOTOGRAPH 3**

26           14. Defendant lacks knowledge or information sufficient to form a belief  
27 as to truth of the allegations contained in Paragraph 14, and on that basis denies  
28 each and every allegation contained therein.

1           15. Defendant denies the allegations set forth in Paragraph 15.

2           16. Defendant is without sufficient knowledge or information to form a  
3 belief as to the truth of the allegations contained in Paragraph 16, including as to  
4 what the images in Paragraph 16 are alleged to reflect, and on that basis denies  
5 each and every allegation contained therein.

6                   **CLAIMS RELATED TO SUBJECT PHOTOGRAPH 4**

7           17. Defendant lacks knowledge or information sufficient to form a belief  
8 as to truth of the allegations contained in Paragraph 17, and on that basis denies  
9 each and every allegation contained therein.

10          18. Defendant denies the allegations set forth in Paragraph 18.

11          19. Defendant is without sufficient knowledge or information to form a  
12 belief as to the truth of the allegations contained in Paragraph 19, including as to  
13 what the images in Paragraph 19 are alleged to reflect, and on that basis denies  
14 each and every allegation contained therein.

15                   **CLAIMS RELATED TO SUBJECT PHOTOGRAPH 5**

16          20. Defendant lacks knowledge or information sufficient to form a belief  
17 as to truth of the allegations contained in Paragraph 20, and on that basis denies  
18 each and every allegation contained therein.

19          21. Defendant denies the allegations set forth in Paragraph 21.

20          22. Defendant is without sufficient knowledge or information to form a  
21 belief as to the truth of the allegations contained in Paragraph 22, including as to  
22 what the images in Paragraph 22 are alleged to reflect, and on that basis denies  
23 each and every allegation contained therein.

24                   **CLAIMS RELATED TO SUBJECT PHOTOGRAPH 6**

25          23. Defendant lacks knowledge or information sufficient to form a belief  
26 as to truth of the allegations contained in Paragraph 23, and on that basis denies  
27 each and every allegation contained therein.

28          24. Defendant denies the allegations set forth in Paragraph 24.

25. Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 25, including as to what the images in Paragraph 25 are alleged to reflect, and on that basis denies each and every allegation contained therein.

26. Defendant denies that Plaintiff's counsel tried, in good faith, to amicably resolve this matter. Instead, Plaintiff's counsel sent a threatening letter demanding an extortionate monetary sum well beyond any reasonable resolution of Plaintiff's claims and beyond any reasonable license value at issue. Defendant further denies that it failed to substantively respond to Plaintiff's correspondence. Defendant denies the remaining allegations contained in Paragraph 26.

**CLAIM FOR RELIEF**

(For Copyright Infringement – Against all Defendants, and Each)

27. Defendant repeats and incorporates its responses to the allegations contained in Paragraphs 1 to 26 of the Complaint as if fully set forth herein.

28. Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 28, and on that basis denies each and every allegation contained therein.

29. Defendant admits that the images included in the Complaint speak for themselves and purport to reflect that portions of photographs at issue in this lawsuit were included in certain images contained on websites owned and operated by Defendant. Except as specifically admitted, Defendant denies the allegations in Paragraph 29.

30. Paragraph 30 contains legal conclusions to which no response is required. To the extent any response is required, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 30, and on that basis denies each and every allegation contained therein.

31. Defendant denies the allegations in Paragraph 31.

32. Defendant denies the allegations in Paragraph 32.

33. Defendant denies the allegations in Paragraph 33.

34. Defendant denies the allegations in Paragraph 34.

**PRAYER FOR RELIEF**

The relief requested requires no response as there are no facts alleged therein. To the extent any response is required, Defendant denies the allegations in the relief requested, objects to the relief requested, and denies that Plaintiff is entitled to any of the relief requested in the Complaint (or any other relief whatsoever).

**JURY DEMAND**

Defendant admits that Plaintiff has demanded a trial by jury on all issues triable.

**AFFIRMATIVE DEFENSES**

In further response to the Complaint, Defendant makes the following allegations as affirmative defenses against the claims asserted against them therein, without admitting that it bears the burden of persuasion or presentation of evidence on each or any of these matters, and without waiving the right to assert and rely upon other defenses that become available or apparent during the course of this action.

**FIRST AFFIRMATIVE DEFENSE**

**(Failure to State a Claim)**

The Complaint and each of the claims for relief alleged therein fails to state a claim against Defendant upon which relief may be granted.

**SECOND AFFIRMATIVE DEFENSE**

**(Invalid Copyright Registration)**

Plaintiff's claims for copyright infringement are barred because they are based on the alleged infringement of works for which a valid and enforceable

1 copyright registration does not exist and/or for which the alleged copyright  
2 registration contains materially false and/or inaccurate information.

3 **THIRD AFFIRMATIVE DEFENSE**

4 **(Acts and/or Omissions of Others)**

5 The sole and/or proximate cause of certain of the acts complained of by  
6 Plaintiff were due to the acts and/or omissions of persons and entities other than  
7 Defendant.

8 **FOURTH AFFIRMATIVE DEFENSE**

9 **(Unclean Hands)**

10 The Complaint and each claim therein is barred, precluded, and/or limited by  
11 reason of Plaintiff's unclean hands.

12 **FIFTH AFFIRMATIVE DEFENSE**

13 **(Copyright Misuse)**

14 Plaintiff's claim are barred, in whole or in part, on the grounds that Plaintiff  
15 has engaged in licensing and other practices that constitute copyright misuse in  
16 violation of antitrust law and public policy.

17 **SIXTH AFFIRMATIVE DEFENSE**

18 **(Failure to Mitigate)**

19 On information and belief, Plaintiff has failed to make reasonable efforts to  
20 mitigate the damages alleged. Accordingly, the relief, if any, to which Plaintiff  
21 allegedly is entitled is limited by the extent of its failure to mitigate.

22 **SEVENTH AFFIRMATIVE DEFENSE**

23 **(Noncompliance With Statutory Provisions)**

24 Plaintiff is barred from claiming statutory damages or attorney's fees under  
25 Section 412 of the Copyright Act (17 U.S.C. § 412), to the extent any alleged acts  
26 of infringement occurred before first registration of Plaintiff's alleged work.

**EIGHTH AFFIRMATIVE DEFENSE**

**(Lack of Originality)**

The photographs at issue or the portions of such photographs at issue lack sufficient originality to warrant copyright protection.

**NINTH AFFIRMATIVE DEFENSE**

**(Waiver and Estoppel)**

Plaintiff has waived and/or is estopped from asserting any of its claims.

**TENTH AFFIRMATIVE DEFENSE**

**(Acquiescence)**

Plaintiff's claims are barred, in whole or in part, by the doctrine of acquiescence.

**ELEVENTH AFFIRMATIVE DEFENSE**

**(Lack of Standing/Ownership)**

Plaintiff's claims against Defendant are barred, in whole or in part, by Plaintiff's lack of standing to assert such claims due, in part, to the fact that he does not own all or certain copyright rights in the claimed photographs.

**TWELFTH AFFIRMATIVE DEFENSE**

**(Innocent Infringement)**

Any alleged infringement by Defendant was innocent.

**THIRTEENTH AFFIRMATIVE DEFENSE**

**(Fair Use)**

Any alleged use by Defendant of any alleged copyrighted work purportedly owned by Plaintiff constitutes a non-infringing fair use under Section 107 of the Copyright Act (17 U.S.C. § 107).



**FOURTEENTH AFFIRMATIVE DEFENSE**

**(No Willfulness)**

Without admitting that Defendant has infringed any purportedly copyrightable material, or that Plaintiff possesses copyright rights that could be infringed, Defendant has not acted willfully.

**FIFTEENTH AFFIRMATIVE DEFENSE**

**(Adequate Remedy at Law)**

Plaintiff has an adequate remedy at law and therefore is not entitled to any other relief sought.

**SIXTEENTH AFFIRMATIVE DEFENSE**

**(De Minimis Damages)**

To the extent any copyright has been infringed, which Defendant does not concede, Plaintiff has suffered, at most, *de minimis* damages, namely in the form of a lost license fee, which on information and belief, is minimal in the context in which the works at issue were used.

**SEVENTEENTH AFFIRMATIVE DEFENSE**

**(Lack of Profits)**

To the extent any copyright has been infringed, which Defendant does not concede, Defendant did not earn any profits, gains, income, receipts, or other benefits attributable to the works at issue.

**EIGHTEENTH AFFIRMATIVE DEFENSE**

**(Laches)**

Plaintiff's claims for equitable relief are barred, in whole or in part, by the doctrine of laches.

**NINETEENTH AFFIRMATIVE DEFENSE**

**(Unjust Enrichment)**

Plaintiff's claims are barred, in whole or in part, on the ground that Plaintiff would be unjustly enriched if it were granted the relief sought.

**TWENTIETH AFFIRMATIVE DEFENSE**

**(Lack of Personal Jurisdiction)**

Plaintiff's claims are barred, in whole or in part, on the ground that this Court lacks personal jurisdiction over Defendant.

**TWENTY-FIRST AFFIRMATIVE DEFENSE**

**(No Attorneys' Fees)**

To the extent any copyright has been infringed, which Defendant denies, Plaintiff is not entitled to an award of attorneys' fees under 17 U.S.C. § 505 in light of, *inter alia*, Defendant's reasonable defenses.

**TWENTY-SECOND AFFIRMATIVE DEFENSE**

**(Implied License)**

To the extent any copyright has been infringed, which Defendant denies, Defendant had an implied license to use the photographs at issue, including to copy, display, distribute, license, or offer them for license.

**TWENTY-THIRD AFFIRMATIVE DEFENSE**

**(Statute of Limitations)**

Plaintiff's claims are barred, in whole or in part, by the statute of limitations, Section 507(b) of the Copyright Act (17 U.S.C. § 507(b)), as his alleged claims accrued over three years before Plaintiff should have, with due diligence, discovered the alleged infringements.

**TWENTY-FOURTH AFFIRMATIVE DEFENSE**

**(Right to Assert Additional Defenses)**

Defendant hereby gives notice that, due to its incomplete knowledge as to the matters set forth in the Complaint at this time, it is unable to determine whether it has additional defenses not expressly enumerated in the preceding paragraphs or elsewhere in this Answer. Defendant thus reserves its right to amend its Answer to assert additional defenses and to rely upon those additional defenses to the extent

1 they become available or apparent during discovery or further proceedings in this  
2 action.

3  
4 **DEFENDANT VALNET, INC.'S PRAYER FOR RELIEF**

5 WHEREFORE, Defendant respectfully requests that the Court enter  
6 judgment in its favor and against Plaintiff, as follows:

- 7 1. Denying all relief sought by Plaintiff in the Complaint;  
8 2. Dismissing the Complaint in its entirety with prejudice;  
9 3. Declaring that Defendant has not infringed any copyrights of  
10 Plaintiff's;  
11 4. Finding that Plaintiff is not entitled to damages or attorney's fees;  
12 5. Awarding Defendant its costs, including reasonable attorneys' fees in  
13 accordance with 17 U.S.C. § 505; and  
14 6. Grant all such other and further relief as the Court may deem just and  
15 proper.

16 DATED: September 27, 2023

17 DAVID A. STEINBERG  
18 MARC E. MAYER  
19 MITCHELL SILBERBERG & KNUPP LLP

20 By: /s/ Marc E. Mayer  
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23 *Attorneys for Defendant Valnet, Inc.*  
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